

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

**ERIC FRANCIS
LA. DOC #418411
VS.**

CIVIL ACTION NO. 6:16-1262

SECTION P

TIM HOOPER

JUDGE DRELL

MAGISTRATE JUDGE HANNA

MEMORANDUM ORDER

Before the court are the Motion to Re-characterize and Motion to Adopt Exhibits filed by *pro se* petitioner Eric Francis in connection with his petition for writ of *habeas corpus* filed pursuant to 28 U.S.C. §2254 on September 6, 2016. [rec. docs. 2 and 3]. By the former Motion, Francis requests that this Court "re-characterize" a federal *habeas corpus* petition Francis claims to have filed in this Court in February, 2016 from an alleged second and successive federal *habeas corpus* petition to a first federal *habeas corpus* petition, and then relate the instant federal *habeas corpus* petition back to the date of the alleged February, 2016 filing. By the latter Motion, Francis requests that this Court adopt the exhibits he allegedly submitted with his alleged February, 2016 filing.

This Court has examined its records and has determined that Francis did not file any prior federal *habeas corpus* actions in this Court challenging his February 17, 2009 manslaughter conviction in February, 2016 or at any time prior to his

February 17, 2009 manslaughter conviction challenged herein. To the contrary, this Court's records reveal that a prisoner named Eric Francis filed a federal *habeas corpus* action in 1997, challenging drug convictions. *See Eric Francis v. Warden Allen Correctional Center*, 6:97-cv-2009 (W.D. La. 1997). The Louisiana DOC number of that petitioner does not match that of Francis in this case. Accordingly, it is unclear if that action was filed by petitioner.

For the above reasons;

IT IS ORDERED that the Motion to Re-characterize and Motion to Adopt Exhibits [rec. docs. 2 and 3] are **DENIED** without prejudice to the right of petitioner to provide evidence of the prior filing whether by docket number, actual documents that were filed, or any correspondence from this Court from which a prior filing can be identified.

THUS DONE AND SIGNED in chambers, in Lafayette, Louisiana, this 11th day of October, 2016.



PATRICK J. HANNA
UNITED STATES MAGISTRATE JUDGE